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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,353	03/16/2004	Yasuhiro Watanabe	04-218	3622
34704 7590 07/09/2007 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510				
			EXAMINER MUI, CHRISTINE T	
			ART UNIT 1709	PAPER NUMBER
			MAIL DATE 07/09/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/802,353

Applicant(s)

WATANABE ET AL.

Examiner

Christine T. Mui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                                    |                                                                                         |
|----------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                               | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>13 May 2004; 07 June 2004</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 3,799,742 to Coleman (herein referred "Coleman").

Regarding claims 1-2 and 4, the reference Coleman discloses an analytical test container with an elongated body (device body) with a passageway (flow passage) that extends through the end wall that connects the reception chamber with the exterior of the container. At the position below the separation chamber are first and second cuvettes (storage portions). There is a closure membrane at an exterior opening of the container made of strippable tape or film (sealing portion) that when removed communication is established between the container exterior and second cuvette (see column 5, line 9, 28-30, 57-59 and 66-67; Figure 1). It is interpreted by the examiner that the liquid sample introduced into the test container is subjected to capillary action when the liquid that is in contact with the solid part of the container is distorted, elevated or depressed.

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Regarding claim 3, the reference Coleman discloses a test container that has multiple cuvettes (storage portions) and multiple exhaust vents that are provided with strippable (capable of being disengaged) gas and liquid permeable tape closures (second seal portion) that overlies permanently secured opening covers (see column 14, lines 73-75 and column 15, lines 1-5 and Figure 25).

Regarding claim 5, the reference Coleman discloses an analytical testing device with a plurality of chambers where are a plurality of conduits (flow passages) in the test device that are connected with each other and to a chamber which has a cover on the vent of the chamber made of a impermeable tape to initiate flow (seal portion) when opened (see column 21 and 22, Figure 36).

Regarding claim 6, the reference Coleman discloses the analytical testing device is arranged so that the reception chamber (storage portion) at one end of the device with a stopper providing closure to the environment is at one end of the test device that is in communication with the other chambers throughout the device (see column 21, lines 56-60, Figure 36).

Regarding claims 7-10, the reference Coleman discloses an analytical testing container (device body) with a enter header (main flow passage) and a stopper (sealing portion) for delivery to a series of chambers that provide the chambers with substantially the same quantities of sample that is connected to the reception

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chamber with a vent that is capable of being open to the outside. The stopper can be removed so that the reception chamber is able to have communication with the container exterior. Branching from the enter header there are a plurality of branch conduits (sub-flow passage) connected to chambers (storage portions) to allow flow of a liquid or gas and to a vent opening that can be covered by an impermeable tape (sealing portion) to initiate flow when removed (see column 21, lines 56-75 and column 22, lines 1-51 and Figure 25 and 36).

Regarding claims 11-12, the reference Coleman discloses a miniaturized integrated analytical test container used to test blood glucose, urea, total protein and additional tests. The miniaturized analytical test container (Figure 36) has a container (device body) with a fluid header (flow passage) that is formed in the body to allow flow of a fluid due to contact of the fluid with the solid part of the container that is distorted, elevated or depressed to form capillary flow action. The test container has multiple openings (Figure 36, 872, 886, 896) with a gas and liquid impermeable tape (Figure 36, 874, 888, 898) (sealing portion) over each opening to initiate flow. The analytical test container is capable to have fluids injected into the openings (896 and 886) and sealed with the impermeable tape (898 and 888). The fluids are then collected in the cuvettes (Figure 36, 882 and 892) and mixed in cuvette (882) when a tape (888) is removed and tape (898) is sealed. The mixed fluids in cuvette (882) are then capable of being fed to cuvette (868) at the end of the flow passage (864) by closing (898 and

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888) and opening the tape (874) (see column 21, lines 50-75 and column 22, line 1-75).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine T. Mui whose telephone number is (571) 270-3243. The examiner can normally be reached on Monday-Friday 8-5; Alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Griffin can be reached on (571) 272-1447. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CTM

  
WALTER D. GRIFFIN  
SUPERVISORY PATENT EXAMINER